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10 Attorneys for Plaintiffs  
11 L.C., I.H., A.L., and Antonia Salas Ubaldo

12  
13 **UNITED STATES DISTRICT COURT FOR THE**  
14 **CENTRAL DISTRICT OF CALIFORNIA**

15 L.C., a minor by and through her  
16 guardian *ad litem* Maria Cadena,  
17 individually and as successor-in-interest  
18 to Hector Puga; I.H., a minor by and  
19 through his guardian *ad litem* Jasmine  
20 Hernandez, individually and as  
21 successor-in-interest to Hector Puga;  
22 A.L., a minor by and through her  
23 guardian *ad litem* Lydia Lopez,  
24 individually and as successor-in-interest  
25 to Hector Puga; and ANTONIA SALAS  
UBALDO, individually;

26 Plaintiffs,  
27 vs.

28 STATE OF CALIFORNIA; COUNTY  
29 OF SAN BERNARDINO; S.S.C., a  
30 nominal defendant; ISAIAH KEE;  
31 MICHAEL BLACKWOOD;  
32 BERNARDO RUBALCAVA; ROBERT  
33 VACCARI; JAKE ADAMS; and DOES  
34 6-10, inclusive,

35 Defendants.

Case No. 5:22-cv-00949-KK-SHK

*Honorable Kenly Kiya Kato*

**JOINT PROPOSED DISPUTED  
VERDICT FORMS**

**TO THE HONORABLE COURT, ALL PARTIES AND THEIR  
ATTORNEYS OF RECORD:**

3 Pursuant to the Court’s Civil Trial Scheduling Order, Plaintiffs L.C., a minor  
4 by and through her guardian *ad litem* Maria Cadena; I.H., a minor by and through  
5 his guardian *ad litem* Jasmine Hernandez; A.L., a minor by and through her  
6 guardian *ad litem* Lydia Lopez; and Antonia Salas Ubaldo (“Plaintiffs”) and  
7 Defendants State of California, by and through the California Highway Patrol,  
8 Michael Blackwood, Isaiah Kee, and Bernardo Rubalcava (“State Defendants”),  
9 (collectively “the Parties”), hereby submit this Joint Proposed Disputed Verdict  
10 Forms.

12 DATED: May 8, 2025 LAW OFFICES OF DALE K. GALIPO

## LAW OFFICES OF DALE K. GALIPO

14 Bv /s/ Hang D. Le  
15 Dale K. Galipo  
16 Hang D. Le  
Attorneys for Plaintiffs

19 DATED: May 8, 2025 ROB BONTA  
20 Attorney General of California  
NORMAN D. MORRISON  
Supervising Deputy Attorney General

*/s/ Diana Esquivel*

DIANA ESQUIVEL  
Deputy Attorney General  
*Attorneys for Defendant State of Cal., by and  
through the CHP, Blackwood, Kee, and  
Rubalcava*

\*The filer, Hang D. Le, hereby attests that all other signatories listed, and on whose behalf the filing is submitted, concur with the filing's content and have authorized the filing.

## **PLAINTIFFS' PROPOSED VERDICT FORM**

We, the jury in the above-entitled action, find the following:

**QUESTION 1:** Did any of the following officers use excessive or unreasonable force against Hector Puga?

Isaiah Kee YES \_\_\_\_\_ NO \_\_\_\_\_  
Bernardo Rubalcava YES \_\_\_\_\_ NO \_\_\_\_\_  
Michael Blackwood YES \_\_\_\_\_ NO \_\_\_\_\_

*If you answered “Yes” to any defendant in Question 1, please proceed to answer Question 2 for that defendant and use of force.*

*If you answered “No” to all defendants and uses of force in Question 1, please skip Question 2 and proceed to Question 3.*

**QUESTION 2:** Was the use of excessive or unreasonable force a cause of Hector Puga's harm, damage, injury, or loss?

Isaiah Kee YES \_\_\_\_\_ NO \_\_\_\_\_  
Bernardo Rubalcava YES \_\_\_\_\_ NO \_\_\_\_\_  
Michael Blackwood YES \_\_\_\_\_ NO \_\_\_\_\_

*Please answer Question 3.*

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1                   **QUESTION 3:** Were any of the involved CHP officers negligent towards  
2 Hector Puga?  
3

4 Isaiah Kee                   YES \_\_\_\_\_                   NO \_\_\_\_\_

5 Bernardo Rubalcava           YES \_\_\_\_\_                   NO \_\_\_\_\_

6 Michael Blackwood           YES \_\_\_\_\_                   NO \_\_\_\_\_

7  
8 *If you answered “yes” to any defendant in Question 3, please proceed to answer  
9 Question 4 for that defendant(s).*

10 *If you answered “no” to all defendants in Question 3, but “yes” to any defendants  
11 in Question 1 and “yes” to the corresponding defendant and use of force in  
12 Question 2, please proceed to answer “Question 8.”*

13 *If you answered “no” to all defendants and uses of force in Question 1 and “no” to  
14 all defendants in Question 3, please sign and return this form.*

15 *If you answered “no” to all defendants and uses of force in Question 2, “no” to all  
16 defendants in Question 3, please sign and return this form.*

17

18                   **QUESTION 4:** Was the negligence of any of the involved CHP officers a  
19 cause of Hector Puga’s injury or harm?  
20

21 Isaiah Kee                   YES \_\_\_\_\_                   NO \_\_\_\_\_

22 Bernardo Rubalcava           YES \_\_\_\_\_                   NO \_\_\_\_\_

23 Michael Blackwood           YES \_\_\_\_\_                   NO \_\_\_\_\_

24  
25 *If you answered “yes” to any defendants in Question 4, please proceed to the next  
26 question.*  
27  
28

1 *If you answered “no” to all defendants in Question 4, but “yes” to any defendant in*  
2 *Questions 1 and 2, please skip Questions 5-7 and proceed to answer Question 8.*  
3 *If you answered “no” to all defendants in Question 4 and “no” to all defendants in*  
4 *Questions 1 and/or 2, please sign and return this form.*

5

6 **QUESTION 5:** Was Hector Puga negligent?

7

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YES \_\_\_\_\_ NO \_\_\_\_\_

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10 *If you answered “yes” to Question 6, please proceed to Question 7.*

11 *If you answered “no” to Question 6, please skip Questions 7-8 and proceed to*  
12 *Question 9.*

13

14 **QUESTION 6:** Was Hector Puga’s negligence a cause of his injury or harm?

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YES \_\_\_\_\_ NO \_\_\_\_\_

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19 *If you answered “yes” to Question 7, please proceed to Question 8.*

20 *If you answered “no” to Question 7, please proceed to Question 9.*

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**QUESTION 7:** What percentage of responsibility for Hector Puga's harm or injury do you assign to the negligent conduct, if any, of the following?

3 | California Highway Patrol Officers %

4 | Hector Puga %

5 | TOTAL 100 %

6 || Page

7 | Please proceed to the next question.

9       **QUESTION 8:** Did any of the involved CHP officers act with a reckless  
0 disregard for Hector Puga's constitutional right to be free from excessive force?

12 || YES NO

13 | Please proceed to the next question.

15        **QUESTION 9:** What are Hector Puga's damages for his pre-death pain and  
16        suffering?

21 If you answered "yes" to any defendant in Questions 1 and 2, please proceed to  
22 Question 10.

23 If you answered "no" to any defendant in Questions 1 and 2, but "yes" to defendant  
24 Isaiah Kee and/or Michael Blackwood in Questions 3 and/or 4, please skip  
25 Questions 10 and proceed to answer Question 11.

26 If you answered "no" to all defendants in Questions 1 and/or 2, and "no" to  
27 defendants Isaiah Kee and Michael Blackwood in Questions 3 and/or 4, please sign  
28 and return this form.

1 **QUESTION 10:** What are Hector Puga's damages for his loss of enjoyment of life?

2  
3 \$ \_\_\_\_\_

4

5 *If you answered "yes" to defendant Isaiah Kee and/or Michael Blackwood in  
6 Questions 3 and 4, please proceed to Question 11*

7 *If you answered "no" to defendants Isaiah Kee and Michael Blackwood in  
8 Questions 3 and 4, please skip Question 11 and proceed to answer Question 12.*

9

10 **QUESTION 11:** What are the Plaintiffs' wrongful death damages for the loss  
11 of Hector Puga's love, companionship, comfort, care, assistance, protection,  
12 affection, society, moral support, training and guidance?

13

14 **Plaintiff L.C.**

15 Past loss \$ \_\_\_\_\_

16 Future loss \$ \_\_\_\_\_

17

18 **Plaintiff I.H.**

19 Past loss \$ \_\_\_\_\_

20 Future loss \$ \_\_\_\_\_

21

22 **Plaintiff A.L.**

23 Past loss \$ \_\_\_\_\_

24 Future loss \$ \_\_\_\_\_

25

26 *If you answered "yes" to any defendant in Questions 1 and 2, please proceed to  
27 answer Question 12.*

28

1    *If you answered “no” to all defendants in Questions 1 and 2, please sign and return*  
2    *this form.*

4           **QUESTION 12:** Did any of the involved officers act with malice, oppression,  
5 or in reckless disregard of Hector Puga's rights?

7 Isaiah Kee YES \_\_\_\_\_ NO \_\_\_\_\_  
8 Bernardo Rubalcava YES \_\_\_\_\_ NO \_\_\_\_\_  
9 Michael Blackwood YES \_\_\_\_\_ NO \_\_\_\_\_

11 | Please sign and date this verdict form and return it to the Court.

13 Dated: \_\_\_\_\_ Signed: \_\_\_\_\_  
14 \_\_\_\_\_ Jury Foreperson

1 **Defendants' Objections**

2 Q3: Objection. Defendants' use-of-force conduct is already subsumed in Questions  
3 1 and 2. This question about negligence should be limited to pre-shooting tactics.

4

5 Q5-7: Objection. Incomplete. These questions need to include Deputies and former  
6 Defendants Adams and Vaccari. Plaintiffs' expert offered substantial opinions about  
7 the negligent conduct of the deputies, including pre-shooting tactics.

8

9 Q8: Objection. Confusing as to which claims this question is directed at. Also, each  
10 Defendant should be separately listed to ensure that punitive damages are  
11 appropriately awarded against those Defendants if this question is directed at the  
12 requisite finding for punitive damages.

13

14 Q9-10: Objection. Prejudicial and improper. Plaintiffs, as the successors in interest  
15 to Puga, are entitled one, complete award for survival damages, which includes pain  
16 and suffering before death and loss of life. By breaking up the survival damages,  
17 Plaintiffs are inviting confusion and double damages.

18

19 Q11: Objection. Question must include that no wrongful death damages can be  
20 awarded against Defendant Rubalcava per the Court's ruling on Defendants' motion  
21 for summary judgment.

22

23 Q12: Objection. Confusing as to how this question differs from Q8. If different from  
24 Question 8, then should clarify by adding "Puga's Fourth Amendment constitutional  
25 rights..."

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1 **Plaintiffs' Response**

2 It is improper to separate out negligent pre-shooting conduct from other  
3 negligent conduct, including negligent use of force. The Ninth Circuit has  
4 recognized that the California Supreme Court in *Hayes v. County of San Diego*  
5 emphasized that “pre-force conduct should not be considered in isolation; it is  
6 merely one part of a continuum of circumstances surrounding the reasonableness of  
7 an officer’s use of deadly force.” *Alves v. Cnty. of Riverside*, --- F.4th ---, No. 23-  
8 55532, 2025 WL 1227942, at \*8 (9th Cir. Apr. 29, 2025) (cleaned up) (citing *Hayes*  
9 v. *Cnty. of San Diego*, 57 Cal. 4th 622, 638 (2013)). Moreover, Plaintiffs’  
10 negligence claim is not limited to the officer’s use of force. Under California  
11 negligence law, “the actor’s conduct must always be gauged in relation to all other  
12 material circumstances surrounding it...” *Grudt v. City of Los Angeles*, 2 Cal. 3d  
13 575, 587 (1970) (citing *Toschi v. Christian*, 24 Cal. 2d 354, 360 (1944)); *see Shin v.*  
14 *Ahn*, 42 Cal. 4th 482, 499 (2007) (discussing totality-of-the-circumstances rule);  
15 *John B. v. Superior Court*, 38 Cal. 4th 1177, 1191 (2006) (same); *Kahn v. East Side*  
16 *Union High School Dist.*, 31 Cal. 4th 990, 996 (2003) (same); *Commercial U.A. Co.*  
17 v. *Pacific G. & E. Co.*, 220 Cal. 515, 522 (1934) (same). Under California  
18 negligence law, a jury may “broadly [] consider whether officers acted in a manner  
19 consistent with their duty of due care *during the use of force incident*.” *Alves*, 2025  
20 WL 1227942, at \*8 n.11 (emphasis added). Moreover, the Ninth Circuit recognized  
21 that California tort law’s “reasonable care” standard is distinct from the Fourth  
22 Amendment “reasonableness” standard and that the California’s “totality of the  
23 circumstances” analysis was broader in scope than the Fourth Amendment’s  
24 “totality of the circumstances.” *Alves*, 2025 WL 1227942, at \*8, 9. Thus, the Ninth  
25 Circuit concluded that under the plaintiff’s negligence claim, the jury was permitted  
26 to focus on different aspects of the “totality of the circumstances.” *Id.* at \*8.

27

28

1           Deputies Jake Adams and Robert Vaccari will no longer be defendants at the  
2 time of trial as the County Defendants have reached a settlement with Plaintiffs.  
3 Thus, they should not be included in the verdict form.

4           Question 8 mirrors the jury instruction language for the Bane Act and is thus  
5 not confusing.

6           Under the circumstances of this case, it is proper to separate Decedent's  
7 survival damages into two categories: pain and suffering and loss of enjoyment of  
8 life. This is because Plaintiffs seek survival damages under Plaintiffs' federal Fourth  
9 Amendment claims *and* Plaintiffs' state law battery and negligence claims, as  
10 permitted by law. The Court recently ruled that while there are disputed issues for  
11 which a jury could find Bernardo Rubalcava liable under Plaintiffs' battery and  
12 negligence claim, Plaintiffs may only pursue survival pain and suffering damages  
13 against Blackwood as it appeared undisputed that his shots did not cause the fatal  
14 injury. Pursuant to the Court's ruling, it would be reversible error to allow the jury  
15 to award loss of life damages if the jury only found Rubalcava liable under  
16 Plaintiffs' battery and negligence claim, and thus, the survival claims need to be  
17 separated out.

18           The instruction to get to Question 11 already contemplates the exclusion of  
19 Rubalcava. The instructions specify that the jury should only answer Question 11 if  
20 they found Kee and/or Blackwood liable under Plaintiffs' battery/negligence claims.

21           Question 12 sets out the exact standard for entitlement of punitive damages.  
22 While the standard is somewhat similar to the Bane Act claim in that it contemplates  
23 whether the officers acted in reckless disregard, it is a legally distinct standard. The  
24 jury is instructed beforehand that it can only answer this question if it found liability  
25 under Plaintiffs' Fourth Amendment claim (Questions 1 and 2).

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## **STATE DEFENDANTS' PROPOSED VERDICT FORM**

2 We, the jury unanimously find the following verdict on the questions  
3 submitted to us:

4 **Question 1:** Do you find that any of the following Defendants used excessive or  
5 unreasonable force against decedent Hector Puga which caused him harm?

6 Michael Blackwood Yes \_\_\_\_\_ No \_\_\_\_\_

7      Isaiah Kee                      Yes                      No

8 Bernardo Rubalcava Yes No

9 | Go to Question 2.

10

11 **Question 2:** Were any of the following Defendants negligent as to their pre-  
12 shooting conduct concerning decedent Hector Puga?

13 Michael Blackwood Yes \_\_\_\_\_ No \_\_\_\_\_

14      Isaiah Kee      Yes      No

15      Bernardo Rubalcava      Yes      No

16 | If you answered “yes” to Question 2, go to Question 3.

17 | If you answered “no” to Question 2 but “yes” to Question 1, go to Question 7.

18 If you answered "no" as to all Defendants in Questions 1 and 2, skip the remaining  
19 questions, and please sign and date this form and submit it to the Courtroom  
20 Deputy.

22 **Question 3:** As to any Defendant for whom you answered "yes" in Question 2,  
23 above, was the negligence of the Defendant a substantial factor in causing decedent  
24 Hector Puga's death or harm?

25 Michael Blackwood Yes No

26 || Isaiah Kee Yes No

27 || Bernardo Rubalcava Yes No

28 | If you answered "yes" as to any Defendant, go to Question 4.

1 *If you answered "no" as to all Defendants in Question 3 but answered "yes" as to  
2 any Defendant in Question 1, go to Question 7.*  
3 *If you answered "no" as to all Defendants in Questions 1 and 3, skip the remaining  
4 questions, and please sign and date this form and submit it to the Courtroom  
5 Deputy.*  
6

7 **Question 4:** Were any of the following negligent?

8                   Decedent Hector Puga           Yes \_\_\_\_\_           No \_\_\_\_\_  
9                   Deputy Jake Adams           Yes \_\_\_\_\_           No \_\_\_\_\_  
10                  Deputy Robert Vacarri           Yes \_\_\_\_\_           No \_\_\_\_\_

11 *If you answered "yes" as to any individual, go to Question 5.*

12 *If you answered "no," go to Question 7.*  
13

14 **Question 5:** Was the negligence of any of the following individuals a substantial  
15 factor in causing decedent Hector Puga's death or harm?

16                  Decedent Hector Puga           Yes \_\_\_\_\_           No \_\_\_\_\_  
17                  Deputy Jake Adams           Yes \_\_\_\_\_           No \_\_\_\_\_  
18                  Deputy Robert Vacarri           Yes \_\_\_\_\_           No \_\_\_\_\_

19 *Go to Question 6.*  
20

21 **Question 6:** What percentage of negligence, if any, do you assign to the following  
22 individuals for whom you answered "yes" in Questions 3 and/or 5, above? Your  
23 total must equal 100 percent.

24                  Deputy Jake Adams   %  
25                  Defendant Michael Blackwood                           %  
26                  Defendant Isaiah Kee                                   %  
27                  Defendant Bernardo Rubalcava                           %  
28                  Deputy Robert Vaccari                                   %

1 Decedent Hector Puga \_\_\_\_\_ %

2 Total: 100%

3 *Go to Question 7.*

4

5 **Question 7:** As to any Defendant for whom you answered “yes” in Question 1,  
6 above, what is the amount of compensatory damages, if any, you are awarding to  
7 Plaintiffs, as successors in interest to decedent Hector Puga, for the violation of  
8 Hector Puga’s right to be free of excessive or unreasonable force?

9 Michael Blackwood \$ \_\_\_\_\_ or [ ] nominal damages of \$1.00.

10 Isaiah Kee \$ \_\_\_\_\_ or [ ] nominal damages of \$1.00.

11 Bernardo Rubalcava \$ \_\_\_\_\_ or [ ] nominal damages of \$1.00.

12 **Total:** \$ \_\_\_\_\_

13 *Go to Question 8.*

14

15 **Question 8:** As to any Defendant for whom you answered “yes” in Question 1,  
16 above, do you find by the preponderance of the evidence that the Defendant acted  
17 with malice, oppression, or in reckless disregard of decedent Hector Puga’s  
18 constitutional rights?

19 Michael Blackwood Yes \_\_\_\_\_ No \_\_\_\_\_

20 Isaiah Kee Yes \_\_\_\_\_ No \_\_\_\_\_

21 Bernardo Rubalcava Yes \_\_\_\_\_ No \_\_\_\_\_

22 *Go to Question 9.*

23

24 **Question 9:** As to any Defendant whom you answered “yes” in Question 3, what  
25 are Plaintiffs A.L., I.H., and/or L.C.’s wrongful death (past and future noneconomic)  
26 damages for the loss of decedent Hector Puga’s love, companionship, comfort, care,  
27 assistance, protection, affection, society, and moral support? Do **not** include

1 Defendant Rubalcava in your consideration and calculations even if you answered  
2 "yes" as to him in Question 3

3 .

4 Plaintiff A.L. \$ \_\_\_\_\_

5 Plaintiff I.H. \$ \_\_\_\_\_

6 Plaintiff L.C. \$ \_\_\_\_\_

7 Total: \$ \_\_\_\_\_

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9 *Please sign and date this form and return it to the Courtroom Deputy.*

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12 Dated: \_\_\_\_\_

13 Jury Foreperson

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1 **STATE DEFENDANTS' PROPOSED SPECIAL VERDICT FORM**

2 We, the jury, unanimously find the following on the questions submitted to  
3 us:

4 **Question 1:** Did decedent Hector Puga have a gun in his waistband on February 17,  
5 2021, during his encounter with Defendants?

6 Yes \_\_\_\_\_ No \_\_\_\_\_

7 *Go to Question 2.*

8

9 **Question 2:** Did decedent Hector Puga reach for a gun in his waistband on  
10 February 17, 2021 during his encounter with Defendants?

11 Yes \_\_\_\_\_ No \_\_\_\_\_

12 *Go to Question 3.*

13

14 **Question 3:** Did decedent Hector Puga fire or attempt to fire a gun at any law  
15 enforcement officer on February 17, 2021 during his encounter with Defendants?

16 Yes \_\_\_\_\_ No \_\_\_\_\_

17 *Go to Question 4.*

18

19 **Question 4:** Did decedent Hector Puga have a gun in his hand while running in  
20 northwesterly or northerly direction on Peach Street on February 17, 2021 during  
21 his encounter with Defendants?

22 Yes \_\_\_\_\_ No \_\_\_\_\_

23 *Go to Question 5.*

24    ///

25    ///

26    ///

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1 **Question 5:** Did any of the following Defendants act in self-defense or defense of  
2 others?

3 Michael Blackwood Yes \_\_\_\_\_ No \_\_\_\_\_

4 Isaiah Kee Yes \_\_\_\_\_ No \_\_\_\_\_

5 Bernardo Rubalcava Yes \_\_\_\_\_ No \_\_\_\_\_

6 *Go to Question 6.*

7

8 **Question 6:** Did decedent Hector Puga resist a lawful arrest?

9 Yes \_\_\_\_\_ No \_\_\_\_\_

10 *Go to Question 7.*

11

12 *Please sign and date this form and return it to the Courtroom Deputy.*

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15 Dated: \_\_\_\_\_

16 Jury Foreperson

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1 **Plaintiffs' Objections**

2 Plaintiffs object to the combining of a finding of a constitutional violation and  
3 causation into one question for excessive force in Question 1 as may confuse the  
4 jury.

5 Plaintiffs object to the limiting of Plaintiffs' negligence claim to pre-shooting  
6 conduct in Question 2. Under California negligence law, a jury may "broadly []"  
7 consider whether officers acted in a manner consistent with their duty of due care  
8 *during the use of force incident.*" *Alves v. Cnty. of Riverside*, --- F.4th ---, No. 23-  
9 55532, 2025 WL 1227942, at \*8 n.11 (9th Cir. Apr. 29, 2025) (emphasis added).  
10 The Ninth Circuit recognized that *Hayes* emphasized that "pre-force conduct should  
11 not be considered in isolation; it is merely one part of a continuum of circumstances  
12 surrounding the reasonableness of an officer's use of deadly force." *Id.* at \*8  
13 (cleaned up) (citing *Hayes v. Cnty. of San Diego*, 57 Cal. 4th 622, 638 (2013)).

14 Plaintiffs object to the inclusion of nominal damages in Question 3. Plaintiffs  
15 contend that nominal damages are not applicable under the facts of this case.  
16 Plaintiffs further contend that combining damages is confusing and may lead to an  
17 inconsistent verdict. Plaintiffs further object to listing Plaintiffs for the damages  
18 award as opposed to Hector Puga, who is the rightful plaintiff for the Fourth  
19 Amendment claim and Plaintiffs are simply bringing this claim on his behalf as his  
20 successors in interest. Therefore, the question should be asking what amount of  
21 damages does the jury award *decedent Hector Puga* for pain and suffering and the  
22 loss of life and enjoyment of life.

23 Plaintiffs object to the inclusion of deputies Jake Adams and Robert Vaccari  
24 in Questions 4-6 as they are no longer defendants in this case.

25 Plaintiffs object to listing Defendants in response to Question 7, rather than  
26 listing the Plaintiffs. Plaintiffs further object to failure to list the damages Decedent  
27 is entitled to under his survival claims and instead, phrasing this damages question  
28 in the light of the use of unreasonable force.

1 Plaintiffs object to the inclusion of “by a preponderance of the evidence” in  
2 Question 8, as the burden of proof has already been explained in the jury instructions.

3 Plaintiffs object to the phrasing of Question 9 as it is confusing, particularly  
4 with the inclusion of Rubalcava in the instruction .

5 Plaintiffs object to Special Interrogatories Questions 1-6. Plaintiffs contend  
6 that these disputes are already embodied in the jury instructions and prior questions.  
7 To give additional questions would only open the risk of an inconsistent verdict and  
8 waste judicial resources and time.

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1 **Defendants' Response**

2 Defendants' changes to the verdict form address many of Plaintiffs' concerns,  
3 including Plaintiffs' counsel's representation that they are not seeking punitive  
4 damages under California law. Defendants reserve the right to add back questions  
5 related to the different standard for punitive damages under federal and California  
6 law. Defendants do not agree that nominal damages are not available or appropriate  
7 here. A jury may find that Defendants' second volley was excessive but that no  
8 evidence shows Puga was struck by any bullet during the second volley.

9 Further, Defendants revised the verdict forms to include changes as a result of  
10 the Court granting Defendants' motion for summary judgment on the Fourteenth  
11 Amendment claim and the wrongful death damages against Rubalcava.

12 Separating out Plaintiffs' and Puga's damages are not necessary as the jury  
13 instruction will inform the jury as to which damages Plaintiffs are entitled based on  
14 the claim for which they find liability.

15 Defendants alleged and are pursuing various affirmative defenses that include  
16 immunities. The questions in the special verdict form are necessary for the Court to  
17 determine whether Defendants are entitled to qualified immunity or other California  
18 law immunity once the factual disputes are resolved. Thus, the special verdict form  
19 is appropriate.

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